

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SEVEN NETWORKS, LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 2:17-cv-442-JRG

LEAD CASE

JURY TRIAL DEMANDED

SEVEN NETWORKS, LLC,

Plaintiff,

v.

**SAMSUNG ELECTRONICS CO., LTD AND
SAMSUNG ELECTRONICS AMERICA, INC.**

Defendants.

Civil Action No. 2:17-CV-441-JRG

CONSOLIDATED CASE

JURY TRIAL DEMANDED

**DECLARATION OF JONATHAN TSE IN SUPPORT OF DEFENDANTS' OPPOSITION
TO SEVEN'S MOTION TO STRIKE DEFENDANTS' PRIOR ART-RELATED
DOCUMENTS AND INFORMATION**

I, Jonathan Tse, declare as follows:

1. I am an attorney at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Defendant Google LLC ("Google") in this matter. I submit this declaration in support of Defendants' Opposition to SEVEN's Motion to Strike Defendants' Prior Art-Related Documents and Information.

2. I have personal knowledge of the facts stated herein and if called to testify could and would competently testify thereto.

3. Google contacted the GreenPower developer, Gael Pouzerate, and hired him as a consultant. Mr. Pouzerate provided GreenPower documents and source code, which were timely

produced. Mr. Pouzerate sat for a deposition in Oslo, Norway on August 13, 2018. SEVEN's counsel, Vishal Patel, attended and participated in Mr. Pouzerate's deposition.

4. The defendants timely filed their invalidity contentions in accordance with Patent Rules 3-3 and 3-4 on November 15, 2017, identifying JuiceDefender, UltimateJuice, Greenify, Greenify Donation Package, GreenPower, and GreenPower Premium (among others) as prior art systems.

5. No additional GreenPower source code was made available for inspection after the fact discovery deadline.

6. An authentication affidavit from the Internet Archive for the July 11, 2013 capture of "Greenify (Donation Version)" Google Play webpage is forthcoming.

7. An authentication affidavit from the Internet Archive for the June 2, 2013 capture of "Greenify *ROOT: Renew my Phone" Google Play webpage is forthcoming.

8. Google engaged in two rounds of narrowing for its prior art on July 30, 2018 and September 14, 2018 and continue to rely on JuiceDefender, UltimateJuice, GreenPower, GreenPower Premium, Greenify, and Greenify Donation Package as prior art systems.

9. Attached hereto as Exhibit A is a true and correct copy of excerpts of Google's Third Supplemental Initial Disclosures, served July 10, 2018.

10. Attached hereto as Exhibit B is a true and correct copy of Google's letter regarding production volume PROD036, dated August 31, 2018.

11. Attached hereto as Exhibit C is a true and correct copy of the cross-reference spreadsheet of Google's production volume PROD036, tying the Bates numbers to the .apk file names of the prior art systems, dated August 31, 2018.

12. Attached hereto as Exhibit D is a true and correct copy of Google's letter regarding its source code production, dated May 24, 2018.

13. Attached hereto as Exhibit E is a true and correct copy of third party Binary Mango's letter regarding production volume BINARYMANGO002, dated June 21, 2018.

14. Attached hereto as Exhibit F is a true and correct copy of the cross-reference spreadsheet of third party Binary Mango's production volume BINARYMANGO002, tying the Bates-numbers to the GreenPower .apk file names, dated June 21, 2018.

15. Attached hereto as Exhibit G is a true and correct copy of third party Binary Mango's letter regarding production volume BINARYMANGO_SC_PROD001, dated August 6, 2018.

16. Attached hereto as Exhibit H is a true and correct copy of SEVEN_PRIOR_ART00001914, served on November 15, 2017. The May 10, 2013 post in SEVEN_PRIOR_ART00035972 (Dkt. 345, Ex. D) is merely displayed on page 176 of the same thread. Given that the thread in SEVEN_PRIOR_ART00001914 spanned hundreds of pages, Google initially only produced an abridged version of the entire thread that only contained the first few posts announcing the application launch by the developer of Greenify. SEVEN_PRIOR_ART00035972 shares the same base URL as SEVEN_PRIOR_ART00001914, with the only difference being the addition of "&page=176" appended to the end of the URL for SEVEN_PRIOR_ART000035972. The URL at the bottom of SEVEN_PRIOR_ART00035972 merely reflects the unique URL given to each post. A user may navigate to the May 10, 2013 post shown in SEVEN_PRIOR_ART00035972 by using the navigation arrows in SEVEN_PRIOR_ART00001914.

17. Attached hereto as Exhibit I is a true and correct copy of excerpts of Defendants' Invalidity Contentions, Exhibit 254-A18 for Greenify Application, served on November 15, 2017.

18. Attached hereto as Exhibit J is a true and correct copy of Defendants' Invalidity Contentions, Exhibit 600-A10 for Greenify Application, served on November 15, 2017.

19. Attached hereto as Exhibit K is a true and correct copy of SEVEN_PRIOR_ART00035964, which is an August 22, 2013 capture on Internet Archive of the Google Play webpage for "Greenify (Donation Version)," served on August 31, 2018. Like the allegedly "late-produced" SEVEN_PRIOR_ART00035974. (Dkt. 345, Ex. D), SEVEN_PRIOR_ART00035964 contains the complete description of the "Greenify (Donation Version)" prior art.

20. Attached hereto as Exhibit L is a true and correct copy of the SEVEN_PRIOR_ART00034394, which is an August 22, 2013 capture on Internet Archive of the Google Play webpage for "Greenify (Donation Version)," served on July 18, 2018. SEVEN_PRIOR_ART00034394 is an abridged version of the allegedly "late-produced" SEVEN_PRIOR_ART00035974 (Dkt. 345, Ex. D) and does not contain the complete description of the Greenify (Donation Version) prior art.

21. Attached hereto as Exhibit M is a true and correct copy of INTERNETARCHIVE00000015, which is the Affidavit of Christopher Butler authenticating, among others, the Internet Archive webpage of the August 22, 2013 capture of the "Greenify (Donation Version)" Google Play webpage (INTERNETARCHIVE000000711-712) and the June 6, 2013 capture of the "Greenify *ROOT: Renew my Phone" Google Play webpage (INTERNETARCHIVE000000713-714), served on September 17, 2018.

22. Attached hereto as Exhibit N is a true and correct copy of excerpts of INTERNETARCHIVE00000018, which is Exhibit A to the Affidavit of Christopher Butler and includes the August 22, 2013 capture of the “Greenify (Donation Version)” Google Play webpage (INTERNETARCHIVE00000711-712) and the June 6, 2013 capture of the “Greenify *ROOT: Renew my Phone” Google Play webpage (INTERNETARCHIVE00000713-714), served on September 17, 2018.

23. Attached hereto as Exhibit O is a true and correct copy of SEVEN_PRIOR_ART00034396, which is the June 6, 2013 capture on Internet Archive of the Google Play webpage for “Greenify *ROOT: Renew my Phone,” served on July 18, 2018. SEVEN_PRIOR_ART00034396 is an abridged version of the allegedly “late-produced” SEVEN_PRIOR_ART00035976 (Dkt. 345, Ex. D) and does not contain the complete description of the “Greenify *ROOT: Renew my Phone” prior art.

24. Attached hereto as Exhibit P is a true and correct copy of excerpts of the Expert Report of Don Turnbull, Ph.D., Regarding the Invalidity of U.S. Patent Nos. 8,811,942, 9,247,019, 9,325,600, 9,351,254, 9,516,129, and 9,553,816, served on September 14, 2018.

25. Attached hereto as Exhibit Q is a true and correct copy of excerpts of Defendants’ P-R. 3-3 and 3-4 Invalidity Contentions cover pleading, served on November 15, 2017.

26. Attached hereto as Exhibit R is a true and correct copy of Samsung’s Final Election of Prior Art, served on September 14, 2018.

27. Attached hereto as Exhibit S is a true and correct copy of Samsung’s Petition for *Inter Partes Review* of the ’254 patent, filed on May 21, 2018.

28. Attached hereto as Exhibit T is a true and correct copy of Exhibit 7 of Samsung’s Petition for *Inter Partes Review* of the ’254 patent, which is the China Patent App. No.

201310239851.7 (“the ’851.7 application”) and filed with Samsung’s Petition for *Inter Partes Review* of the ’254 patent on May 21, 2018.

29. Attached hereto as Exhibit U is a true and correct copy of Exhibit 5 of Samsung’s Petition for *Inter Partes Review* of the ’254 patent, which is the certified English translation of the China Patent App. No. 201310239851.7 (“the ’851.7 application”) and filed with Samsung’s Petition for *Inter Partes Review* of the ’254 patent on May 21, 2018.

30. Attached hereto as Exhibit V is a true and correct copy of BINARYMANGO00000014, served on April 3, 2018. BINARYMANGO00000014 is titled “commits 20180330.txt” and identifies the release dates of the different versions of GreenPower.

31. Attached hereto as Exhibit W is a true and correct copy of excerpts of the transcript of the deposition of Gael Pouzerate, dated August 31, 2018.

32. Attached hereto as Exhibit X is a true and correct copy of excerpts of the transcript of the pre-trial conference in *GENBAND US LLC v. Metaswitch Networks Ltd.*, No. 2:14-cv-33-JRG-RSP (E.D. Tex.), dated September 28, 2015.

33. Attached hereto as Exhibit Y is a true and correct copy of Defendants’ Invalidity Contentions, Exhibit 254-A1 for U.S. Pub. No. 2016/0048682 A1 to Gou, served on November 15, 2017.

34. Attached hereto as Exhibit Z is a true and correct copy of excerpts of SEVEN’s Third Supplemental and Amended Objections and Responses to Defendants’ First Set of Common Interrogatories.

35. Attached hereto as Exhibit AA is a true and correct copy of excerpts of the transcript of the deposition of Dr. Turnbull, dated October 10, 2018.

36. Attached hereto as Exhibit AB is a true and correct copy of excerpts of the transcript of the deposition of Dr. Turnbull, dated October 11, 2018.

37. Attached hereto as Exhibit AC is a true and correct copy of excerpts of the Report of Michael T. Goodrich, Ph.D. Regarding Validity of the '019, '600, '127, and '129 Patents, served on October 5, 2018.

38. Attached hereto as Exhibit AD is a true and correct copy of excerpts of the Appendix (Turnbull Rebuttal) of the Report of Michael T. Goodrich, Ph.D. Regarding Validity of the '019, '600, '127, and '129 Patents, served on October 5, 2018.

39. Attached hereto as Exhibit AE is a true and correct copy of excerpts of the cross-reference spreadsheet of SEVEN's production volume SEVENLIT029, tying the Bates-numbers to the Android source code printouts, among other documents, served September 14, 2018.

40. Attached hereto as Exhibit AF is a true and correct copy of Exhibit 14 O of the Expert Report of Dr. Hugh Smith Regarding Infringement by Google of U.S. Patent Numbers 8,811,952; 9,351,254; and 9,553,816, served September 14, 2018.

41. Attached hereto as Exhibit AG is a true and correct copy of excerpts of the Report of Michael T. Goodrich, Ph.D. Regarding Google's Infringement of the '019, '127, and '129 Patents, served September 14, 2018.

42. Attached hereto as Exhibit AH is a true and correct copy of excerpts of the cross-reference spreadsheet of SEVEN's production volume SEVENLIT033, tying the Bates-numbers to the Android source code printouts, among other documents, served September 19, 2018.

43. Attached hereto as Exhibit AI is a true and correct copy of excerpts of the cross-reference spreadsheet of SEVEN's production volume SEVENLIT040, tying the Bates-numbers to the GreenPower documents, among others, served October 5, 2018.

44. Attached hereto as Exhibit AJ is a true and correct copy of excerpts of the cross-reference spreadsheet of SEVEN's production volume SEVENLIT042, tying the Bates-numbers to the Greenify documents, served October 5, 2018.

45. Attached hereto as Exhibit AK is a true and correct copy of page 176 of the May 10, 2013 post in SEVEN_PRIOR_ART00035972 (Dkt. 345, Ex. D), which is derived from the same thread as SEVEN_PRIOR_ART00001914, available at <https://forum.xda-developers.com/showthread.php?t=2155737&page=176>. The May 10, 2013 post from user lioux in both Exhibit AK and SEVEN_PRIOR_ART00035972 are identical.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed November 7, 2018 in San Francisco, CA

/s/ Jonathan Tse
Jonathan Tse